

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ELIZABETH DeLUCA, and
EDS CARE MANAGEMENT,
INC.,

Plaintiffs/Counter-Defendants,

Case No. 14-12175

vs.

HON. AVERN COHN

AMICA MUTUAL INSURANCE
COMPANY,

Defendant/Counter-Plaintiff.

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MEMORANDUM AND ORDER
DISMISSING DEFENDANT'S COUNTERCLAIM
AND
CLOSING THE CASE

This is a long suffering insurance dispute under Michigan's No-Fault Act. Plaintiffs/Counter-defendants, Elizabeth DeLuca (DeLuca) and EDS Care Management, LLC (EDS) (collectively, where appropriate, EDS) sued defendant/counter-plaintiff Amica Mutual Insurance Company (Amica) seeking payment of personal insurance protection (PIP) benefits from Amica. The PIP benefits were for the care of Stephanie Rudd (Rudd), the insured. Amica filed a counterclaim seeking recoupment of benefits.

After years of litigation and intervening changes in the law, Amica filed a motion to dismiss EDS's First Amended Complaint (Doc. 67) and a motion for summary judgment (Doc. 52). The Court granted Amica's motion to dismiss and denied the summary judgment motion as moot. (Doc. 72). Although the summary judgment motion was directed at the complaint, the arguments raised in the motion pertained to whether EDS was lawfully entitled to PIP benefits previously paid - arguments which

form the basis for Amica's counterclaim. The Court also gave Amica time in which to advise the Court whether it wanted to proceed on its counterclaim. Amica advised that it wanted to proceed.

On September 13, 2018, the Court held a status conference with the parties to discuss the future course of the case. After hearing the parties' respective positions on Amica's right to recoupment, the Court indicated it was going to dismiss Amica's counterclaim.

Accordingly, Amica's counterclaim is DISMISSED.

This case is CLOSED.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: 9/17/2018
Detroit, Michigan